

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

GENE A. CROPPER,)	
)	
Plaintiff,)	
vs.)	NO. CIV-10-0856-HE
)	
MICHAEL J. ASTRUE, Commissioner)	
of the Social Security Administration,)	
)	
Defendant.)	

ORDER

Plaintiff Gene A. Cropper instituted this action seeking judicial review of the final decision of the Commissioner of the Social Security Administration denying his applications for supplemental security income benefits. Consistent with 28 U.S.C. § 636(b)(1)(B), the case was referred to Magistrate Judge Doyle W. Argo, who recommends that the Commissioner’s decision be reversed and the matter remanded for further proceedings.¹ The magistrate judge found the decision of the administrative law judge (“ALJ”) decision was flawed in that she did not “document her application of the psychiatric review ‘technique’ in determining Plaintiff’s mental limitations.”² Report and Recommendation, p. 8.

The parties, having failed to object to the Report and Recommendation, waived their right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). See 28 U.S.C. §

¹*This case was reversed and remanded previously because of errors committed by the administrative law judge. Cropper v. Astrue, CIV-07-1038-CH (W.D.Okla. Aug. 8, 2008).*

²*The magistrate judge noted that, to the extent the ALJ found that plaintiff did not have a severe mental impairment, that determination was not supported by substantial evidence.*

636(b)(1)(C). Accordingly, the court adopts Magistrate Judge Argo's Report and Recommendation, **REVERSES** the final decision of the Commissioner and **REMANDS** the case for further proceedings consistent with the Report and Recommendation, a copy of which is attached to this order.³

IT IS SO ORDERED.

Dated this 14th day of September, 2011.



JOE HEATON
UNITED STATES DISTRICT JUDGE

³*The court is mindful of the fact that this case has been reversed and remanded twice, after consideration by two different ALJ's. This disposition does not suggest that this court has determined plaintiff to be disabled, but reflects rather that the Commissioner has elected to not pursue or contest the matters raised by the respective reports and recommendations.*